



## 99TH GENERAL ASSEMBLY

### State of Illinois

### 2015 and 2016

### SB1726

Introduced 2/20/2015, by Sen. Chapin Rose

#### SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-406	from Ch. 111 2/3, par. 8-406
220 ILCS 5/8-406.1	
220 ILCS 5/8-510	from Ch. 111 2/3, par. 8-510

Amends the Public Utilities Act. Provides that a public utility seeking to construct a high-voltage electric service line and related facilities (Project) must show that the utility has held a minimum of 2 pre-filing public meetings to receive public comment concerning the Project in each county where the Project is to be located, no earlier than 6 months prior to filing an application for a certificate of public convenience and necessity from the Illinois Commerce Commission. Provides that a public utility seeking to construct a Project shall include with the application for a certificate of public convenience and necessity to the Commission a list containing the name and address of each owner of record of the land included in the primary or alternate rights-of way for the Project as disclosed by the records of the tax collector of the county in which the land is located, as of not more than 30 days prior to the filing of the application. Provides that a public utility seeking to construct a Project may not ask for an easement for more ground than what it has filed with the Commission. Provides that a public utility that has been granted a certificate of public convenience and necessity for the purpose of making land surveys and land use studies shall provide a second notice to the owner of the property, identifying the date and time when land surveys and land use studies will begin on the property and informing the landowner of his or her right to be present when the land surveys or land use studies occur. Provides that the second notice shall also indicate whether the certificate of public convenience and necessity has been granted, whether it has been stayed by a court at the time of surveying, and indicate that, should the certificate of public convenience and necessity not be granted or is stayed by a court, the public utility has no right to enter the property. Provides that the notice shall also clearly indicate the property the public utility wishes to survey, and where the landowner can call to deny permission if the certificate of public convenience and necessity has not been granted or has been stayed by a court. Effective immediately.

LRB099 07484 HAF 27606 b

1 AN ACT concerning utilities.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing  
5 Sections 8-406, 8-406.1, and 8-510 as follows:

6 (220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

7 Sec. 8-406. Certificate of public convenience and  
8 necessity.

9 (a) No public utility not owning any city or village  
10 franchise nor engaged in performing any public service or in  
11 furnishing any product or commodity within this State as of  
12 July 1, 1921 and not possessing a certificate of public  
13 convenience and necessity from the Illinois Commerce  
14 Commission, the State Public Utilities Commission or the Public  
15 Utilities Commission, at the time this amendatory Act of 1985  
16 goes into effect, shall transact any business in this State  
17 until it shall have obtained a certificate from the Commission  
18 that public convenience and necessity require the transaction  
19 of such business.

20 (b) No public utility shall begin the construction of any  
21 new plant, equipment, property or facility which is not in  
22 substitution of any existing plant, equipment, property or  
23 facility or any extension or alteration thereof or in addition

1 thereto, unless and until it shall have obtained from the  
2 Commission a certificate that public convenience and necessity  
3 require such construction. Whenever after a hearing the  
4 Commission determines that any new construction or the  
5 transaction of any business by a public utility will promote  
6 the public convenience and is necessary thereto, it shall have  
7 the power to issue certificates of public convenience and  
8 necessity. The Commission shall determine that proposed  
9 construction will promote the public convenience and necessity  
10 only if the utility demonstrates: (1) that the proposed  
11 construction is necessary to provide adequate, reliable, and  
12 efficient service to its customers and is the least-cost means  
13 of satisfying the service needs of its customers or that the  
14 proposed construction will promote the development of an  
15 effectively competitive electricity market that operates  
16 efficiently, is equitable to all customers, and is the least  
17 cost means of satisfying those objectives; (2) that the utility  
18 is capable of efficiently managing and supervising the  
19 construction process and has taken sufficient action to ensure  
20 adequate and efficient construction and supervision thereof;  
21 and (3) that the utility is capable of financing the proposed  
22 construction without significant adverse financial  
23 consequences for the utility or its customers.

24 (c) After the effective date of this amendatory Act of  
25 1987, no construction shall commence on any new nuclear power  
26 plant to be located within this State, and no certificate of

1 public convenience and necessity or other authorization shall  
2 be issued therefor by the Commission, until the Director of the  
3 Illinois Environmental Protection Agency finds that the United  
4 States Government, through its authorized agency, has  
5 identified and approved a demonstrable technology or means for  
6 the disposal of high level nuclear waste, or until such  
7 construction has been specifically approved by a statute  
8 enacted by the General Assembly.

9 As used in this Section, "high level nuclear waste" means  
10 those aqueous wastes resulting from the operation of the first  
11 cycle of the solvent extraction system or equivalent and the  
12 concentrated wastes of the subsequent extraction cycles or  
13 equivalent in a facility for reprocessing irradiated reactor  
14 fuel and shall include spent fuel assemblies prior to fuel  
15 reprocessing.

16 (d) In making its determination, the Commission shall  
17 attach primary weight to the cost or cost savings to the  
18 customers of the utility. The Commission may consider any or  
19 all factors which will or may affect such cost or cost savings,  
20 including the public utility's engineering judgment regarding  
21 the materials used for construction.

22 (e) The Commission may issue a temporary certificate which  
23 shall remain in force not to exceed one year in cases of  
24 emergency, to assure maintenance of adequate service or to  
25 serve particular customers, without notice or hearing, pending  
26 the determination of an application for a certificate, and may

1 by regulation exempt from the requirements of this Section  
2 temporary acts or operations for which the issuance of a  
3 certificate will not be required in the public interest.

4 A public utility shall not be required to obtain but may  
5 apply for and obtain a certificate of public convenience and  
6 necessity pursuant to this Section with respect to any matter  
7 as to which it has received the authorization or order of the  
8 Commission under the Electric Supplier Act, and any such  
9 authorization or order granted a public utility by the  
10 Commission under that Act shall as between public utilities be  
11 deemed to be, and shall have except as provided in that Act the  
12 same force and effect as, a certificate of public convenience  
13 and necessity issued pursuant to this Section.

14 No electric cooperative shall be made or shall become a  
15 party to or shall be entitled to be heard or to otherwise  
16 appear or participate in any proceeding initiated under this  
17 Section for authorization of power plant construction and as to  
18 matters as to which a remedy is available under The Electric  
19 Supplier Act.

20 (f) Such certificates may be altered or modified by the  
21 Commission, upon its own motion or upon application by the  
22 person or corporation affected. Unless exercised within a  
23 period of 2 years from the grant thereof authority conferred by  
24 a certificate of convenience and necessity issued by the  
25 Commission shall be null and void.

26 No certificate of public convenience and necessity shall be

1 construed as granting a monopoly or an exclusive privilege,  
2 immunity or franchise.

3 (g) A public utility that undertakes any of the actions  
4 described in items (1) through (3) of this subsection (g) or  
5 that has obtained approval pursuant to Section 8-406.1 of this  
6 Act shall not be required to comply with the requirements of  
7 this Section to the extent such requirements otherwise would  
8 apply. For purposes of this Section and Section 8-406.1 of this  
9 Act, "high voltage electric service line" means an electric  
10 line having a design voltage of 100,000 or more. For purposes  
11 of this subsection (g), a public utility may do any of the  
12 following:

13 (1) replace or upgrade any existing high voltage  
14 electric service line and related facilities,  
15 notwithstanding its length;

16 (2) relocate any existing high voltage electric  
17 service line and related facilities, notwithstanding its  
18 length, to accommodate construction or expansion of a  
19 roadway or other transportation infrastructure; or

20 (3) construct a high voltage electric service line and  
21 related facilities that is constructed solely to serve a  
22 single customer's premises or to provide a generator  
23 interconnection to the public utility's transmission  
24 system and that will pass under or over the premises owned  
25 by the customer or generator to be served or under or over  
26 premises for which the customer or generator has secured

1 the necessary right of way.

2 (h) A public utility seeking to construct a high-voltage  
3 electric service line and related facilities (Project) must  
4 show that the utility has held a minimum of 2 pre-filing public  
5 meetings to receive public comment concerning the Project in  
6 each county where the Project is to be located, no earlier than  
7 6 months prior to filing an application for a certificate of  
8 public convenience and necessity from the Commission. Notice of  
9 the public meeting shall be published in a newspaper of general  
10 circulation within the affected county once a week for 3  
11 consecutive weeks, beginning no earlier than one month prior to  
12 the first public meeting. If the Project traverses 2 contiguous  
13 counties and where in one county the transmission line mileage  
14 and number of landowners over whose property the proposed route  
15 traverses is 1/5 or less of the transmission line mileage and  
16 number of such landowners of the other county, then the utility  
17 may combine the 2 pre-filing meetings in the county with the  
18 greater transmission line mileage and affected landowners. All  
19 other requirements regarding pre-filing meetings shall apply  
20 in both counties. Notice of the public meeting, including a  
21 description of the Project, must be provided in writing to the  
22 clerk of each county where the Project is to be located. A  
23 representative of the Commission shall be invited to each  
24 pre-filing public meeting.

25 (i) A public utility seeking to construct a high-voltage  
26 electric service line and related facilities (Project) shall

1 include with the application for a certificate of public  
2 convenience and necessity to the Commission a list containing  
3 the name and address of each owner of record of the land  
4 included in the primary or alternate rights-of way for the  
5 Project as disclosed by the records of the tax collector of the  
6 county in which the land is located as of not more than 30 days  
7 prior to the filing of the application. The Commission shall  
8 notify the owners of record by registered mail of the time and  
9 place scheduled for the initial hearing upon the application.

10 (j) A public utility seeking to construct a high-voltage  
11 electric service line and related facilities (Project) may not  
12 ask for an easement for more ground than what it has filed with  
13 the Commission.

14 (Source: P.A. 95-700, eff. 11-9-07; 96-1348, eff. 7-28-10.)

15 (220 ILCS 5/8-406.1)

16 Sec. 8-406.1. Certificate of public convenience and  
17 necessity; expedited procedure.

18 (a) A public utility may apply for a certificate of public  
19 convenience and necessity pursuant to this Section for the  
20 construction of any new high voltage electric service line and  
21 related facilities (Project). To facilitate the expedited  
22 review process of an application filed pursuant to this  
23 Section, an application shall include all of the following:

24 (1) Information in support of the application that  
25 shall include the following:

1 (A) A detailed description of the Project,  
2 including location maps and plot plans to scale showing  
3 all major components.

4 (B) The following engineering data:

5 (i) a detailed Project description including:

6 (I) name and destination of the Project;

7 (II) design voltage rating (kV);

8 (III) operating voltage rating (kV); and

9 (IV) normal peak operating current rating;

10 (ii) a conductor, structures, and substations  
11 description including:

12 (I) conductor size and type;

13 (II) type of structures;

14 (III) height of typical structures;

15 (IV) an explanation why these structures  
16 were selected;

17 (V) dimensional drawings of the typical  
18 structures to be used in the Project; and

19 (VI) a list of the names of all new (and  
20 existing if applicable) substations or  
21 switching stations that will be associated  
22 with the proposed new high voltage electric  
23 service line;

24 (iii) the location of the site and  
25 right-of-way including:

26 (I) miles of right-of-way;

1 (II) miles of circuit;  
2 (III) width of the right-of-way; and  
3 (IV) a brief description of the area  
4 traversed by the proposed high voltage  
5 electric service line, including a description  
6 of the general land uses in the area and the  
7 type of terrain crossed by the proposed line;

8 (iv) assumptions, bases, formulae, and methods  
9 used in the development and preparation of the  
10 diagrams and accompanying data, and a technical  
11 description providing the following information:

12 (I) number of circuits, with  
13 identification as to whether the circuit is  
14 overhead or underground;

15 (II) the operating voltage and frequency;  
16 and

17 (III) conductor size and type and number  
18 of conductors per phase;

19 (v) if the proposed interconnection is an  
20 overhead line, the following additional  
21 information also must be provided:

22 (I) the wind and ice loading design  
23 parameters;

24 (II) a full description and drawing of a  
25 typical supporting structure, including  
26 strength specifications;

1 (III) structure spacing with typical  
2 ruling and maximum spans;

3 (IV) conductor (phase) spacing; and

4 (V) the designed line-to-ground and  
5 conductor-side clearances;

6 (vi) if an underground or underwater  
7 interconnection is proposed, the following  
8 additional information also must be provided:

9 (I) burial depth;

10 (II) type of cable and a description of any  
11 required supporting equipment, such as  
12 insulation medium pressurizing or forced  
13 cooling;

14 (III) cathodic protection scheme; and

15 (IV) type of dielectric fluid and  
16 safeguards used to limit potential spills in  
17 waterways;

18 (vii) technical diagrams that provide  
19 clarification of any item under this item (1)  
20 should be included; and

21 (viii) applicant shall provide and identify a  
22 primary right-of-way and one or more alternate  
23 rights-of-way for the Project as part of the  
24 filing. To the extent applicable, for each  
25 right-of-way, an applicant shall provide the  
26 information described in this subsection (a). Upon

1           a showing of good cause in its filing, an applicant  
2           may be excused from providing and identifying  
3           alternate rights-of-way.

4           (2) An application fee of \$100,000, which shall be paid  
5           into the Public Utility Fund at the time the Chief Clerk of  
6           the Commission deems it complete and accepts the filing.

7           (3) Information showing that the utility has held a  
8           minimum of 3 pre-filing public meetings to receive public  
9           comment concerning the Project in each county where the  
10          Project is to be located, no earlier than 6 months prior to  
11          the filing of the application. Notice of the public meeting  
12          shall be published in a newspaper of general circulation  
13          within the affected county once a week for 3 consecutive  
14          weeks, beginning no earlier than one month prior to the  
15          first public meeting. If the Project traverses 2 contiguous  
16          counties and where in one county the transmission line  
17          mileage and number of landowners over whose property the  
18          proposed route traverses is 1/5 or less of the transmission  
19          line mileage and number of such landowners of the other  
20          county, then the utility may combine the 3 pre-filing  
21          meetings in the county with the greater transmission line  
22          mileage and affected landowners. All other requirements  
23          regarding pre-filing meetings shall apply in both  
24          counties. Notice of the public meeting, including a  
25          description of the Project, must be provided in writing to  
26          the clerk of each county where the Project is to be

1 located. A representative of the Commission shall be  
2 invited to each pre-filing public meeting.

3 (4) A list containing the name and address of each  
4 owner of record of the land included in the primary or  
5 alternate rights-of-way as disclosed by the records of the  
6 tax collector of the county in which the land is located as  
7 of not more than 30 days prior to the filing of the  
8 application. The Commission shall notify the owners of  
9 record by registered mail of the time and place scheduled  
10 for the initial hearing upon the application.

11 (b) At the first status hearing the administrative law  
12 judge shall set a schedule for discovery that shall take into  
13 consideration the expedited nature of the proceeding.

14 (c) Nothing in this Section prohibits a utility from  
15 requesting, or the Commission from approving, protection of  
16 confidential or proprietary information under applicable law.  
17 The public utility may seek confidential protection of any of  
18 the information provided pursuant to this Section, subject to  
19 Commission approval.

20 (d) The public utility shall publish notice of its  
21 application in the official State newspaper within 10 days  
22 following the date of the application's filing.

23 (e) The public utility shall establish a dedicated website  
24 for the Project 3 weeks prior to the first public meeting and  
25 maintain the website until construction of the Project is  
26 complete. The website address shall be included in all public

1 notices.

2 (f) The Commission shall, after notice and hearing, grant a  
3 certificate of public convenience and necessity filed in  
4 accordance with the requirements of this Section if, based upon  
5 the application filed with the Commission and the evidentiary  
6 record, it finds the Project will promote the public  
7 convenience and necessity and that all of the following  
8 criteria are satisfied:

9 (1) That the Project is necessary to provide adequate,  
10 reliable, and efficient service to the public utility's  
11 customers and is the least-cost means of satisfying the  
12 service needs of the public utility's customers or that the  
13 Project will promote the development of an effectively  
14 competitive electricity market that operates efficiently,  
15 is equitable to all customers, and is the least cost means  
16 of satisfying those objectives.

17 (2) That the public utility is capable of efficiently  
18 managing and supervising the construction process and has  
19 taken sufficient action to ensure adequate and efficient  
20 construction and supervision of the construction.

21 (3) That the public utility is capable of financing the  
22 proposed construction without significant adverse  
23 financial consequences for the utility or its customers.

24 (g) The Commission shall issue its decision with findings  
25 of fact and conclusions of law granting or denying the  
26 application no later than 150 days after the application is

1 filed. The Commission may extend the 150-day deadline upon  
2 notice by an additional 75 days if, on or before the 30th day  
3 after the filing of the application, the Commission finds that  
4 good cause exists to extend the 150-day period.

5 (h) In the event the Commission grants a public utility's  
6 application for a certificate pursuant to this Section, the  
7 public utility shall pay a one-time construction fee to each  
8 county in which the Project is constructed within 30 days after  
9 the completion of construction. The construction fee shall be  
10 \$20,000 per mile of high voltage electric service line  
11 constructed in that county, or a proportionate fraction of that  
12 fee. The fee shall be in lieu of any permitting fees that  
13 otherwise would be imposed by a county. Counties receiving a  
14 payment under this subsection (h) may distribute all or  
15 portions of the fee to local taxing districts in that county.

16 (i) Notwithstanding any other provisions of this Act, a  
17 decision granting a certificate under this Section shall  
18 include an order pursuant to Section 8-503 of this Act  
19 authorizing or directing the construction of the high voltage  
20 electric service line and related facilities as approved by the  
21 Commission, in the manner and within the time specified in said  
22 order.

23 (Source: P.A. 96-1348, eff. 7-28-10.)

24 (220 ILCS 5/8-510) (from Ch. 111 2/3, par. 8-510)

25 Sec. 8-510. Land surveys and land use studies. For the

1 purpose of making land surveys and land use studies, any public  
2 utility that has been granted a certificate of public  
3 convenience and necessity by, or received an order under  
4 Section 8-503 or 8-406.1 of this Act from, the Commission may,  
5 30 days after providing written notice to the owner thereof by  
6 registered mail, and after providing a second notice to the  
7 owner of the property, identifying the date and time when land  
8 surveys and land use studies will begin on their property and  
9 informing the landowner that they or their agent may be present  
10 when the land surveys or land use studies occur, by registered  
11 mail at least 3 days, but not more than 5 days, prior to the  
12 stated date in the notice; enter upon the property of any owner  
13 who has refused permission for entrance upon that property, but  
14 subject to responsibility for all damages which may be  
15 inflicted thereby. The second notice shall indicate whether the  
16 certificate of public convenience and necessity has been  
17 granted or whether or not it has been stayed by a court at the  
18 time of surveying. The notice shall indicate that, should the  
19 certificate of public convenience and necessity not be granted  
20 or the ruling stayed by a court, the public utility has no  
21 right to enter the property. The notice shall also clearly  
22 indicate the property the public utility wishes to survey and  
23 where the landowner can call to deny permission if the  
24 certificate of public convenience and necessity has not been  
25 granted or has been stayed by a court.

26 (Source: P.A. 96-1348, eff. 7-28-10.)

1           Section 99. Effective date. This Act takes effect upon  
2           becoming law.